REMARKS

Claims 1-32 are pending in the present application. In the Office Action mailed June 14, 2004, the Examiner rejected claims 1-2 under 35 U.S.C. §103(a) as being unpatentable over Vara et al. (USP 6,063,030) in view of Wu et al. (USP 6,687,527). The Examiner next rejected claims 3-15 under 35 U.S.C. §103(a) as being unpatentable over Vara et al. in view of Wu et al and further in view of Hoford et al. (USP 5,950,002).

In rejecting claim 1, the Examiner indicated that Vara et al. teaches all the elements of claim 1 except for the plurality of status indicators. The Examiner relied on Wu et al. in combination with Vara et al. for teaching the status indicators of claim 1, and asserted that it would have been obvious to combine the two references "in order to display the status of the medical imaging session to the user and thus help to manage the workflow of said medical imaging." However, Vara et al. does not teach the elements of claim 1 for which it is cited, Wu et al. teaches away from status indicators as called for in claim 1, the Examiner's application of Wu et al. is inconsistent, and the Examiner's basis for combining Vara et al. and Wu et al. is unsupportive.

Claim 1 calls for, in part, "a plurality of modularizing selectors configured to facilitate workflow through an imaging application." The Examiner stated that the virtual control user interface of Vara et al. "is a GUI for prescribing medical imaging sessions," and that the selectable imaging functions of the dynamic and secondary menus 36 in Vara et al "are modularizing selectors." Applicant believes the menus 36 of Vara et al. are not organized to "facilitate workflow" in an imaging session, but rather merely to present imaging functions in no particular order. The Examiner actually acknowledged this point by describing the purpose of the menus 36 as merely to "allow [a] user to select specific imaging functions." The claimed invention, however, is designed to prescribe an imaging session and "facilitate workflow" therein. While Vara et al. teaches nothing more than buttons in a menu, the "modularizing selectors" of the present invention represent organized steps of an imaging process. See ¶[0045] of Application. A cluster of imaging functions such as the dynamic menu 36 of Vara et al. is not "configured to facilitate workflow through an imaging application." In fact, a disorganized conglomeration of functions may even hamper workflow through an imaging application by making it harder for a user to identify the necessary steps of an imaging process in order. A GUI displaying a cluster of random functions, as taught by Vara et al., is exactly the prior art that the present invention supplants. See ¶¶ [0003] - [0004] of Application.

7

Applicant also believes that the "monitor parameters" of Wu et al. cannot be "status indicators" since they do not display a status. From a logical standpoint, to indicate a "status," or state of events, some status must be recognizable or some event must occur to create a status. However, the monitor parameters of Wu et al. are nothing more than estimates of imaging characteristics regarding activities that may occur. *See* col. 10, lns. 41-43. According to Wu et al., "[o]nce the user is satisfied with the selected parameter values, the user typically selects to run the scan." Col. 20, lns. 7-10. That is, the scan parameters are affected only before any scanning event takes place. Since the monitor parameters are affected only by changes in the scan parameters, the monitor parameters also can only be affected before scanning takes place. Thus, no scanning events occur during the time when the monitor parameters can be affected, so the monitor parameters do not indicate a "status" as do, for example, the progress bars 206 and timer 208 of the present invention.

This point is further clarified when the claim is reviewed as a whole rather than in the abstract. Claim 1, in part, calls for "a plurality of status indicators...to display completion of tasks associated with the modularizing selector." How can status indicators display completion of a task if no task has yet begun because scanning has yet to commence? Simply, the "monitor parameters" of Wu et al. cannot be "status indicators," as called for in claim 1, because they only illustrate "selected parameter values" prior to scanning. Col. 20, lns. 7-19. Hence, the "monitor parameters" of Wu et al. neither indicate status nor display completion of tasks.

The Examiner attempted to reconcile this discrepancy by stating that Vara et al. and Wu et al. teach such function since, upon user modification of a parameter, display areas are changed or formatted. However, the portions of Vara et al. and Wu et al. cited by the Examiner do not teach or suggest any indication of completion of status indicators. The Examiner did not cite any particular modules or GUI constructs capable of functioning as the claimed "status indicators," that positively display completion of a task. At best, a user would have to infer from the main displays of the GUIs themselves that the user's commands were carried out. However, such an inference is not a "status indicator" that displays "completion of tasks associated with the modularizing selector."

The Examiner also contended that the "warning indicators" of Wu et al. "are status indicators and messaging system." The "warning indicators" taught by Wu et al. and shown in Fig. 2B as items 250-258 are nothing more than colored textual labels displayed above or below a slider bar of a monitor parameter. Rather than indicating a status of some scanning or imaging

8

event, the "warning indicators" simply impart the projected likelihood of a sub-optimal image condition if scanning were to take place with the presently stored parameter values. Col. 11, ln. 53 to col. 12, ln. 14. That is, because scanning and imaging take place after the parameters are set, the warning indicators cannot display the status, or state of events, of any part of the actual scanning and imaging. Furthermore, upon once again considering the claim elements as a whole, it is apparent that the "warning indicators" cannot be "status indicators" because they do not display completion of tasks. Rather, as stated above, the "warning indicators" merely serve as cautionary reminders that "certain parameter values enter particularly undesirable regions." Col. 11, lns. 54-55. Simply, "warning indicators" communicate warnings and not completion of tasks, as claimed.

Additionally, the "warning indicators" correspond to monitor parameters, and do not correspond to "modularizing selectors," as claimed. The Examiner proffered no reasoning to support the contention that the monitor parameters of Wu et al. are modularizing selectors. To the contrary, the Examiner actually asserted that the monitor parameters of Wu et al. may themselves be "status indicators." Simply, the Examiner has asserted inconsistent positions that clearly cannot be reconciled.

In fact, there are several inconsistencies in the Examiner's rejection of claim 1. First, the Examiner cited the "scan parameters" of Wu et al. as modularizing selectors, and the "monitor parameters" of Wu et al. as status indicators. Then, the Examiner cited "warning indicators" of Wu et al. as status indicators, and, since the warning indicators correspond to "monitor parameters," thus implied that the monitor parameters are modularizing selectors. Finally, the Examiner indicated that "changes in the display area" of both Vara et al. and Wu et al. infer status indicators "displaying the completion of the change in the parameter value." While Applicant believes that none of these indications teach or suggest that called for in claim 1, Applicant nonetheless believes that such a method of rejection is improper under MPEP §§706.02 and 706.02(j) as being unclear and duplicative.

Notwithstanding these inconsistencies, the "monitor parameters," to which the "warning indicators" correlate, do not constitute the claimed modularizing selectors because, unlike the modularizing selectors of claim 1, the monitor parameters do not represent the steps of an imaging process and are not selectable. Thus, the "warning indicators" do not constitute "status indicator[s] correlating with ... modularizing selector[s]."

9

The Examiner did acknowledge that Vara et al. "does not explicitly teach a plurality of status indicators, each status indicator correlating with a modularizing selector and configured to display at least one of selection of the modularizing selector." However, the Examiner then asserted that the monitor parameters 202-210 of Wu et al. constitute status indicators, and that the scan parameters 102-110 constitute modularizing selectors "as taught by Vara et al." However, the Examiner provided no support for the contention that Vara et al. teaches modularizing selectors comparable to scan parameters. In fact, Vara et al. does not teach any modularizing selectors, least of all modularizing selectors that comprise scan parameters as found in Wu et al. The Examiner did not provide any support to the inference stemming therefrom that the monitor parameters (characterized as status indicators) of Wu et al. correlate somehow to modularizing selectors of an entirely different reference, Vara et al. Specifically, the cited "status indicators" are found in Wu et al., and the "modularizing selectors" are found in Vara et al. Therefore, it seems apparent that any such correlation between the "status indicators" and "modulating selectors" identified by the Examiner is highly improbable, at best, since these two stem from entirely separate references regarding distinct imaging applications with very distinct GUIs. Simply, Applicant believes no correlation exists and the Examiner has not provided a basis to conclude otherwise.

Accordingly, one skilled in the art would not be motivated to combine Vara et al. and Wu et al. Nevertheless, the combination does not, in fact, teach or suggest that which is expressly called for in claim 1. Accordingly, Applicant believes claim 1 is patentably distinct. Furthermore, claims 2-9 are in condition for allowance at least pursuant to the chain of dependency.

In the rejection of claim 10, the Examiner stated that "the same basis and rationale for claim rejection as applied to claims 1 and 3 are applied." However, claim 10 is an independent claim with differing and distinct elements from those of claim 1 and therefore requires independent examination. Regardless, the supplied references do not teach each and every element of claim 10, and no motivation exists to combine Vara et al, Wu et al., and Hoford et al. for the purposes set forth by the Examiner.

Specifically, Applicant believes that Hoford et al. is non-analogous to the present invention, and therefore cannot be combined with Vara et al. and Wu et al. Furthermore, though the Examiner cited Hoford et al. as teaching (1) prescription tabs aligned vertically on the GUI, (2) status indicators wherein each indicator is configured to display a status of activities for a

10

corresponding prescription tab, and (3) a plurality of context-specific tabs aligned horizontally on the GUI, Applicant believes, regardless of its applicability, that Hoford et al. does not teach or suggest that which is called for in claim 10.

Hoford et al. is directed to a script generation system for creating application- and/or user-specific medical imaging software, including medical imaging GUIs. *See* col. 4, lns. 25-27, col. 16, lns. 27-28. Hoford et al. is not directed to a specific GUI for medical imaging, nor does it suggest any specific and particular attributes of such a GUI. Hoford et al. is similar to commercial programming studios in that it facilitates the creation and coding of a type of application software (medical imaging), but is not that type of application software itself. As such, Hoford et al. is not analogous to a "graphical workflow management tool for prescribing an MR imaging scan."

Nevertheless, beyond the non-analogous nature of Hoford et al., the combination fails to teach or suggest that which is called for in claim 10. That is, claim 10 calls for, in part, "a plurality of prescription tabs aligned vertically on the GUI." The tabs of Hoford et al. shown in Fig. 1 and cited by the Examiner are in a state of being created and are far too vague and generic to teach "a plurality of prescription tabs," as the word "prescription" specifies directing the preparation of something. The tabs of Fig. 1 and the language of Hoford et al. cited by the Examiner merely relate to the process of creating GUI conventions and do not teach or suggest prescription tabs as called for in claim 10.

The Examiner also stated that "Hoford et al. teaches editing screen layout, and thus allows the user to display said status indicators wherein each indicator is configured to display a status of activities for a corresponding prescription tab." (Emphasis added). Thus, the Examiner has indicated that a script generation system teaches or suggests the positioning and the functionality of a GUI convention, simply because the system might be capable of creating such a convention. Applicant believes the position of the Examiner is a clear indication of the use of impermissible hindsight. *See* MPEP §§2142 and 2145(X)(A). Specifically, the Examiner provided no basis for utilizing the system of Hoford et al. to create tabs in the manner and with the functionality claimed other than Applicant's own disclosure, which is impermissible under MPEP §§ 2142 and 2145(X)(A).

Furthermore, by the Examiner's reasoning, graphical code generators should make obvious virtually any subsequent GUI conventions. However, this is incorrect. No motivation is found anywhere in Hoford et al. to suggest the creation of "a plurality of status indicators,

11

wherein each status indicator is configured to display a status of activities for a corresponding prescription tab," as Hoford et al. regards code generation and not specific GUI conventions.

The Examiner also stated that Hoford et al. teaches a "plurality of context-specific tabs aligned horizontally on the GUI," as called for in claim 10. However, upon addressing this element of the claim, the Examiner merely appended an address of the element to the end of an argument regarding status indicators. Furthermore, the Examiner provided no additional or distinctive reasoning or citation to indicate how the Examiner believes Hoford et al. teaches context-specific tabs. On the other hand, Applicant believes that Hoford et al. does not teach a plurality of context specific tabs because Hoford et al. is specifically directed and limited to code generation for application development and not specific GUI conventions or layouts. There is no mention or suggestion of context-specific tabs or how such a context-specific tab would be arranged whatsoever in Hoford et al.

Additionally, the fact that the Examiner applied Hoford et al. to each of the elements of claim 10 without addressing or citing any portions of Vara et al. or Wu et al. is further evidence that Vara et al. and Wu et al. do not teach or suggest that called for in claim 10. Accordingly, it appears that, though cited, the Examiner believed that the elements of claim 10 are not present in Vara et al. and Wu et al. Therefore, no suggestion exists to combine such with Hoford et al. to satisfy claim 10. The Examiner's statement that "[t]he combination of Vara et al., Wu et al., and Hoford et al. teach a graphical workflow management tool for prescribing an MR imaging scan" is without support. Accordingly, the crux of the rejection of claim 10 relies on Hoford et al., which Applicant has shown (1) to be non-analogous and (2) to not teach or suggest that which is explicitly claimed.

For at least the above reasons, claim 10 is patentably distinct. As such, claims 11-15 are in condition for allowance at least pursuant to the chain of dependency.
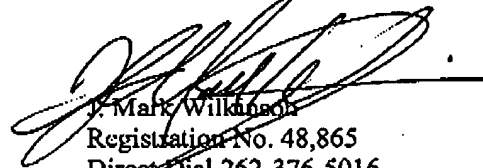
In summary, the art of record does not teach or suggest each and every element of the claims. The current rejection is therefore unsustainable. *See* MPEP §2142. In light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-15.

12

Trevino et al.   S/N: 09/683,129

Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

T. Mark Wilkinson
Registration No. 48,865
Direct Dial 262-376-5016
tjz@zpspatents.com

Dated: 12/16/04
Attorney Docket No.: GEMS8081.108

P.O. ADDRESS:
Ziolkowski Patent Solutions Group, LLC
14135 North Cedarburg Road
Mequon, WI 53097-1416
262-376-5170

13